

CHAPTER NO. 845

HOUSE BILL NO. 1416

By Representatives Rinks, McDaniel

Substituted for: Senate Bill No. 1694

By Senators Clabough, Atchley

AN ACT to amend Tennessee Code Annotated, Titles 46, 47, 48, 55, 56, 62, 63, and 68.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated 62-43-113(b)(2) is amended by deleting the language in this subdivision in its entirety and by substituting instead the following new language:

(2) Pay state unemployment premiums as required by law.

(A) METHOD OF REPORTING AND PAYMENT. Effective the calendar quarter beginning January 1, 2003, a licensed staff leasing company or staff leasing group shall keep separate records and submit separate state unemployment insurance wage and premium reports with payments pursuant to Title 50, Chapter 7, Part 4, to report the leased employees of each client by using the client's state employer account number as provided for in subdivision (i) and using the premium rate based on the aggregate reserve ratio of the staff leasing company as provided in subdivision (ii).

(i) CLIENT ACCOUNT NUMBER. Each staff leasing company having one or more leased employees of a client in Tennessee shall file an application for an account number for each client having one or more leased employees in Tennessee. Such application shall include:

(a) the aggregate state number assigned to the staff leasing company and the name and address and phone number of the staff leasing company,

(b) the name, physical address and phone number of the client,

(c) the name of the client's owner, partners, corporate officers, limited liability company members and managers (if board managed) or general partners,

(d) the federal identification number of the client,

(e) the signature of the client's principal(s) or attorney in fact,

(f) a brief description of the client's major business activity, listing any products produced or sold, or service provided, and

(g) any other information which may be required by the commissioner of the department of labor and workforce development.

(h) The staff leasing company must notify the department of labor and workforce development in writing of any additions or deletions of clients during the quarter in which such changes occur.

(i) All information furnished to the department of labor and workforce development under this section shall be treated as confidential information as provided in T.C.A. 50-7-701.

(ii) **DETERMINATION OF THE AGGREGATE RESERVE RATIO OF A STAFF LEASING COMPANY.** There shall be two (2) methods used in determining the aggregate reserve ratio of a staff leasing company:

(a) the aggregate reserve ratio of a staff leasing company shall be determined by: totaling all the state unemployment premiums paid on both the state taxable wages of a staff leasing company and on the state taxable wages of all the clients of such staff leasing company for all years during which the staff leasing company has been subject to Title 50, Chapter 7, and all the years each individual client has been a client of the staff leasing company as of the computation date, as provided in Section 50-7-403(k)(1), and subtracting therefrom the total of all benefits charged to the aggregate reserve account of the staff leasing company for all years, including the benefits charged resulting from benefits paid to leased employees of each individual client for all the years each client has been a client of the staff leasing company as of the computation date. The difference shall be divided by the average taxable payroll for the three most recently completed calendar years, ending on the computation date, of the staff leasing company, plus the average taxable payroll of each client for that portion of the three (3) year period during which such client was a client of the staff leasing company. The resulting quotient will be the aggregate reserve ratio of the staff leasing company beginning the July 1 following the computation date. The employer premium rate for the staff leasing company shall be determined by matching its aggregate reserve ratio to the appropriate premium rate table pursuant to Title 50, Chapter 7 or

(b) in cases where the aggregate reserve account of a staff leasing company has not been chargeable with benefits for thirty-six (36) consecutive

months ending on the computation date, such staff leasing company will be assigned the new employer premium rate based upon the reserve ratio of such staff leasing company's Standard Industrial Classification (SIC) Code as determined pursuant to Section 50-7-403(b)(1)(B).

(c) A staff leasing company shall not be considered a successor employer, within the meaning to Title 50, Chapter 7, to any client and shall not acquire the experience history of any client with whom the staff leasing company has contracted. The client, upon terminating its relationship with the staff leasing company, shall not be considered a successor employer, within the meaning of Title 50, Chapter 7, to the staff leasing company and shall not acquire any portion of the experience history of the aggregate reserve account of the staff leasing company.

(B) JOINT AND SEVERAL LIABILITY. A client shall be jointly and severally liable with a staff leasing company for state unemployment premiums for each of such client's leased employees; provided however, a client shall be relieved of joint and several liability for state unemployment premiums if the staff leasing company has posted a corporate surety bond, as described herein, with the Administrator of the Division of Employment Security of the Tennessee Department of Labor and Workforce Development in the amount of \$100,000 for so long as said bond remains in force. Such corporate surety bond must be in form and content approved by the Commissioner of the Department of Labor and Workforce Development as evidenced by said Commissioner's written consent thereto, and must be issued by an organization currently licensed and authorized to issue such bond in the State of Tennessee. The bond shall be conditioned for the benefit of the Commissioner of the Department of Labor and Workforce Development, who may enforce said bond to collect unpaid unemployment insurance premiums, interest and penalties owed by the staff leasing company pursuant to Title 50, Chapter 7, Part 4. Any surety is required to provide the Administrator of the Division of Employment Security of the Department of Labor and Workforce Development sixty (60) days' notice of cancellation of the bond. If after three (3) full calendar years, throughout which a staff leasing company has paid all unemployment insurance premiums due in a timely manner and has a positive unemployment insurance reserve account, the bond may be reduced to an amount not less than \$35,000 as determined and approved by the Administrator of the Division of Employment Security conditioned upon the total taxable payroll for the previous calendar year and other factors deemed relevant by the Administrator. Any reduced bond shall be subject to review on no less than an annual basis by the Administrator of the Division of Employment Security, who may adjust the required amount of the bond as is deemed appropriate.

SECTION 2. This act shall take effect upon becoming law, the public welfare requiring it.

PASSED: June 24, 2002




JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES



JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 3rd day of July 2002



DON CONQUIST, GOVERNOR